

### **REMARKS**

This responds to the Office Action dated on September 10, 2007.

Claims 1, 2, and 11 are amended, and claims 34-37 are added; as a result, claims 1-11 and 13-37 are now pending in this application.

#### **In the Specification**

The specification was objected to for informalities. The specification has been amended to correct a typographical error made in the serial number of the related application. No new matter has been added.

#### **§103 Rejection of the Claims Using Chachques and Heynen**

Claims 1-3, 6-11, 13-15 and 17-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chachques (U.S. Pub. No. 2002/0124855, herein "Chachques") in view of Heynen et al. (U.S. Patent No. 6,507,756, herein "Heynen").

#### **Claim 1**

Claim 1 has been amended to more clearly describe the recited subject matter.

Applicant respectfully traverses the rejection and submits that the Office Action does not set forth a proper *prima facie* case of obviousness because Chachques and Heynen, individually or in combination, do not provide the claimed subject matter. For example, Applicant is unable to find in Chachques and Heynen, individually or in combination, among other things, a teaching or suggestion of a pulse generator programmed to include a selectable pacing mode adapted to enhance the cell therapy, the selectable pacing mode including specialized cell therapy pacing cycles, as recited in claim 1.

The Office Action states that "'including specialized cell therapy pacing cycles' is considered to be analogous to the electrical stimulation to enhance the cells, as taught by Chachques". However, Chachques relates to using electrical stimulation that is "well known in the field of cardiology", in contrast to the selectable pacing mode adapted to enhance the cell therapy as recited in claim 1. It is believed that, at the time of the present invention, a "well known" electrical stimulation as taught in Chachques would not include a pacing mode including

“specialized cell therapy pacing cycles” as recited in claim 1. Should the Examiner disagree, evidence showing the contrary is respectfully requested.

Applicant respectfully requests reconsideration and allowance of claim 1.

#### *Claims 2-3 and 6-10*

Applicant respectfully traverses the rejection. Claims 2-3 and 6-10 are dependent on claim 1, which is believed to be allowable for at least the reasons set forth above. Therefore, the discussion above for claim 1 is incorporated herein to support the patentability of claims 2-3 and 6-10.

Additionally, claim 2 has been amended. Applicant is unable to find in Chachques and Heynen, individually or in combination, among other things, a teaching or suggestion of a pulse generator that includes a VDD pacing mode having an atrioventricular delay that is lengthened by a predetermined amount on a predetermined periodic basis over a predetermined time, as recited in claim 2.

Applicant respectfully requests reconsideration and allowance of claims 2-3 and 6-10.

#### *Claims 11*

Claim 11 has been amended to more clearly describe the recited subject matter.

Applicant respectfully traverses the rejection and submits that the Office Action does not set forth a proper *prima facie* case of obviousness because Chachques and Heynen, individually or in combination, do not provide the claimed subject matter. For example, Applicant is unable to find in Chachques and Heynen, individually or in combination, among other things, a teaching or suggestion of programming a pacing mode adapted to enhance the cell therapy and including specialized cell therapy pacing cycles, as recited in claim 11.

Because claims 1 and 11 are rejected on the same ground, the discussion above for claim 1 is incorporated herein to support the patentability of claim 11.

Applicant respectfully requests reconsideration and allowance of claim 11.

*Claims 13-15 and 17-24*

Applicant respectfully traverses the rejection. Claims 13-15 and 17-24 are dependent on claim 11, which is believed to be allowable for at least the reasons set forth above. Therefore, the discussion above for claim 11 is incorporated herein to support the patentability of claims 13-15 and 17-24.

Applicant respectfully requests reconsideration and allowance of claim 13-15 and 17-24.

*§103 Rejection of the Claims Using Chachques, Heynen, and Bonnet*

Claims 4, 5, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chachques and Heynen and further in view of Bonnet (U.S. Patent No. 6,574,507, herein "Bonnet").

Applicant respectfully traverses the rejection.

Claims 4 and 5 are dependent on claim 1, which is believed to be allowable for at least the reasons set forth above. It is believed that the addition of Bonnet does not remedy the deficiency of Chachques and Heynen as discussed for claim 1 above. Therefore, the discussion above for claim 1 is incorporated herein to support the patentability of claims 4 and 5.

Claim 16 is dependent on claim 11, which is believed to be allowable for at least the reasons set forth above. It is believed that the addition of Bonnet does not remedy the deficiency of Chachques and Heynen as discussed for claim 11 above. Therefore, the discussion above for claim 1 is incorporated herein to support the patentability of claim 16.

Applicant respectfully requests reconsideration and allowance of claims 4, 5, and 16.

*New Claims*

New claims 34-37 have been added. Applicant believes that no new matter is added and that the new claims are appropriate for consideration in the present application.

Applicant respectfully requests consideration and allowance of claims 34-37.

### CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6965 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.

P.O. Box 2938

Minneapolis, MN 55402

(612) 373-6965

Date 12-10-2007

By 

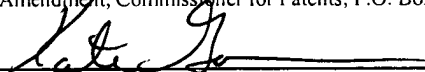
Zhengenian Tang

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10 day of December 2007.

KATE GANDON

Name



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